

KEVIN GALLAGHER, on behalf of himself; and DONOR NO. 1, individually and on behalf of all anonymous donors to Free Barrett Brown,) C 17-0586 MEJ
Plaintiffs,)
v.)
UNITED STATES; CANDINA HEATH; ROBERT SMITH; DOES 1-10,)
Defendants.)
) DEFENDANTS UNITED STATES, CANDINA HEATH, AND ROBERT SMITH'S REQUEST FOR THE COURT TO CONSIDER AND TAKE JUDICIAL NOTICE
) Date: August 17, 2017
) Time: 10:00 a.m.
) Judge: Maria-Elena James
) Courtroom B, 15 th Floor, 450 Golden Gate Ave., San Francisco, CA

Defendants the United States of America, Candina Heath, and Robert Smith request the Court

consider the following documents upon considering the motions to dismiss filed concurrently herewith:

- A. Subpoena to Testify at a Hearing or Trial in a Criminal Case and Attachment, issued to WePay, Inc., in *United States v. Brown*, No. 12-413 (N.D. Tex. Jan. 23, 2013) (“WePay Subpoena”) (attached as Exhibit A); and
- B. Summary of Account and Affidavit in response to the WePay Subpoena (“WePay Response”), filed under seal as “Attachment D” to the Government’s Motion to Direct Funds Be Paid in *United States v. Brown*, No. 12-413 (N.D. Tex. Feb. 12, 2013) (attached as Exhibit B).

Both the WePay Subpoena and the WePay Response are referenced throughout the complaint. See Compl. ¶¶ 3-5, 28, 30-32, 42, 44, 54-55. It is well established that when considering a motion to dismiss for failure to state a claim, courts may consider in their entirety all “materials incorporated into the complaint by reference.” See *Loos v. Immersion Corp.*, 762 F.3d 880, 886 (9th Cir. 2014) (citation omitted); *In re NVIDIA Corp. Sec. Litig.*, 768 F.3d 1046, 1058 n.10 (9th Cir. 2014).

Defendants also request the Court take judicial notice of the following documents:

- C. Docket Sheet from *United States v. Brown*, No. 12-317 (N.D. Tex.) (attached as Exhibit C);
- D. Government’s Motion to Direct Funds Be Paid, filed under seal in *United States v. Brown*, No. 12-317 (N.D. Tex. Feb. 12, 2013) (attached as Exhibit D);
- E. Order, filed in *United States v. Brown*, No. 12-317 (N.D. Tex. Mar. 29, 2013) (ECF 49) (attached as Exhibit E);
- F. Order, filed in *United States v. Brown*, No. 12-317 (N.D. Tex. Apr. 17, 2013) (ECF 50) (attached as Exhibit F); and
- G. Order, filed in *United States v. Brown*, No. 12-317 (N.D. Tex. May 30, 2013) (ECF 64) (attached as Exhibit G).

These documents are all court filings from the criminal proceedings in *United States v. Brown*, No. 12-317 (N.D. Tex.). Rule 201 permits a court to take judicial notice at any stage of the proceedings of any fact “not subject to reasonable dispute because it . . . can be accurately and readily determined

from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201. It is well established that Rule 201 permits courts to take judicial notice of court filings, including documents filed under seal. *See Harris v. County of Orange*, 682 F.3d 1126, 1132 (9th Cir. 2012); *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006).

For these reasons, Defendants respectfully request the Court consider and take judicial notice of the documents referenced herein.

DATED: May 11, 2017

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General, Civil Division

BRIAN J. STRETCH
United States Attorney, Northern District of
California

C. SALVATORE D’ALESSIO, JR.
Acting Director, Torts Branch, Civil Division

RICHARD MONTAGUE
Senior Trial Counsel, Torts Branch, Civil Division

/s/ Siegmund F. Fuchs
SIEGMUND F. FUCHS
Trial Attorney, Torts Branch, Civil Division

Attorneys for Defendants Candina Heath and
Robert Smith

/s/ Samuel M. Singer
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Civil Division, Federal Programs Branch
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Attorney for Defendant United States

ATTESTATION

Pursuant to Local Rule 5-1(i)(3), I certify that the content of this document is acceptable to counsel for the Defendant United States and that I have obtained authorization from Samuel Singer to affix his electronic signature to this document.

DATED: May 11, 2017

Respectfully submitted,

/s/ Siegmund F. Fuchs

SIEGMUND F. FUCHS

Trial Attorney, Torts Branch, Civil Division

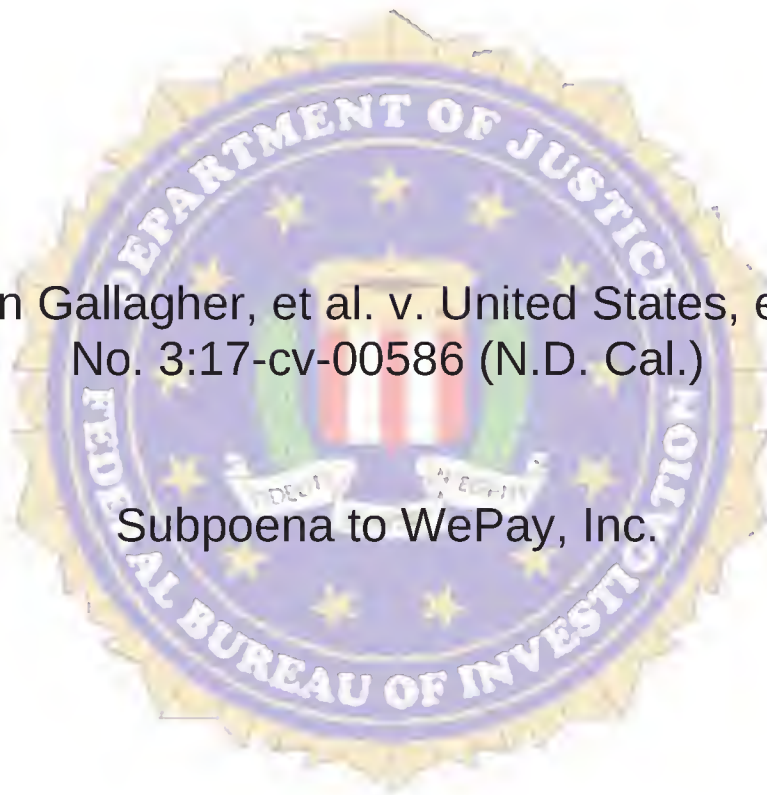
Attorneys for Defendants Candina Heath and Robert Smith

Exhibit A

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Kevin Gallagher, et al. v. United States, et al.,
No. 3:17-cv-00586 (N.D. Cal.)

Subpoena to WePay, Inc.



EXCISED COPY

DELETION CODES

P-1 INFORMATION, THE DISCLOSURE OF WHICH WOULD BE AN UNWARRANTED
INVASION OF PERSONAL PRIVACY.

United States District Court

for the
Northern District of Texas

United States of America)

v.)

Case No. 3:12-CR-413-BBarrett Lancaster Brown)*Defendant*)

SUBPOENA TO TESTIFY AT A HEARING OR TRIAL IN A CRIMINAL CASE

To: WePay, Inc., Attention: (P-1), Custodian of Records
 455 Portage Ave, Suite B, Palo Alto, California 94306
 650-521-5279

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place shown below to testify in this criminal case. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place of Appearance: UNITED STATES DISTRICT COURT
1100 Commerce Street, Dallas, TX 75242

Courtroom No.: Judge Boyle, 1306Date and Time: 2/19/2013 at 9:00 a.m.

You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

Please see attachment

Date: 1/23/2013

CLERK OF COURT

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the attorney representing (*name of party*) United States of America
 _____, who requests this subpoena, are:

CANDINA S. HEATH Assistant United States Attorney
 1100 Commerce Street, 3rd Floor, Dallas, Texas 75242
 214.659.8600
 candina.heath@usdoj.gov

Attachment

WePay, Inc.
Attention: (P-1)
Custodian of Records
455 Portage Ave Suite B
Palo Alto, California 94306
United States
650-521-5279

Please provide any and all records and information for the account of “WePay-FREE BARRETT BROWN,” and 169587, and <http://www.wepay.com/donations/free-barrett-brown>, including:

1. Subscriber records and information for the “user” as defined in the WePay User Agreement, including names, phone numbers, email addresses, physical addresses, US Tax ID, articles of incorporation, passports, driver’s licenses, business licenses, and other contact information;
2. Financial information regarding the “user” as defined in the WePay User Agreement;
3. Sources of the funds – financial institution, credit card company, account holder at financial institution or of the credit card account;
4. Physical location of the funds;
5. Complete transaction history, including invoices and sending account numbers and receiving account numbers; and
6. All records and information obtained from any verification checks on purchasers;

Exhibit B



WePay

Subpoena

Unites. States of America v.
Barrett Lancaster Brown

Attention: Special Agent Robert Smith
Federal Bureau of Investigation
One Justice Way
J. Gordon Shanklin Building
Dallas, Texas 75220

380 Portage Ave
Palo Alto, CA 94306
T 650-800-3281

www.wepay.com

NAME OF ACCOUNT: Free Barrett Brown
NAME OF ACCOUNT ADMINISTRATOR: Karen Lancaster
EMAIL ADDRESS: [REDACTED]
ADDRESS: [REDACTED]
PHONE NUMBER: [REDACTED]
CREDIT CARD: [REDACTED]
BANK ACCOUNT:
 Routing Number: [REDACTED]
 Account Number: [REDACTED]

Summary of account:

The account was created by Karen Lancaster on 9/27/12. A donation campaign was set up on that date. The account has an available balance of \$4,411.96. No funds raised through the campaign have been withdrawn. See below for transaction history of the account.

Attachment

D

Date	State	Product	Payment Method	From	To	Gross	Fee
01-28-2013 19:43:01	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$20.00	\$1.28
01-26-2013 15:48:13	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$61.01	\$3.13
01-25-2013 06:35:20	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$5.00	\$0.54
01-24-2013 03:30:32	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$70.00	\$3.73
01-20-2013 05:07:20	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$20.00	\$1.28
01-19-2013 02:27:54	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$1,000.00	\$49.30
01-18-2013 21:59:58	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$45.00	\$2.50
01-18-2013 02:40:20	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$50.00	\$2.75
01-18-2013 02:19:55	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$20.00	\$1.28
01-18-2013 01:30:57	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$500.00	\$24.80
01-17-2013 13:17:56	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$115.00	\$5.93
01-16-2013 23:05:31	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$100.00	\$5.20
01-16-2013 04:27:26	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	Free Barrett Brown	\$20.00	\$1.28

01-16-2013 02:27:32	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$105.20	\$5.20
01-16-2013 01:58:58	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$21.28	\$1.28
01-15-2013 18:58:47	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$5.00	\$0.54
01-14-2013 03:37:52	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$100.00	\$5.20
01-12-2013 05:23:12	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$262.55	\$12.55
01-04-2013 17:49:13	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$52.75	\$2.75
01-03-2013 06:04:53	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$400.00	\$19.90
01-03-2013 00:51:25	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$105.20	\$5.20
12-22-2012 15:29:14	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$400.00	\$19.90
12-11-2012 17:51:30	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$94.72	\$4.71
12-04-2012 02:58:47	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$50.00	\$2.75
11-14-2012 01:35:48	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$273.04	\$13.04
10-30-2012 17:59:25	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$200.00	\$10.10
10-29-2012 16:07:14	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$100.00	\$5.20

10-20-2012 17:46:35	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$50.00	\$2.75
10-18-2012 12:58:30	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$100.00	\$5.20
10-06-2012 09:44:31	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$10.79	\$0.79
10-06-2012 08:37:20	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$30.00	\$1.77
10-05-2012 03:06:32	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$50.00	\$2.75
10-01-2012 14:50:47	Captured	<u>Donation Campaign 'Barrett Brown Legal Defense Fund'</u>	[REDACTED]	[REDACTED]	<u>Free Barrett Brown</u>	\$200.00	\$0.00

AFFIDAVIT OF CUSTODIAN OF RECORDS
AS TO AUTHENTICITY OF BUSINESS RECORDS
PURSUANT TO RULE 902(11) FEDERAL RULES OF EVIDENCE

I, [REDACTED] hereby declare under penalty of perjury, the following statements of fact to be true and correct:

1. I am associated with WePay, Inc. as custodian of records. In this position I have the responsibility for WePay, Inc. compliance with the trial subpoena duces tecum in the above referenced case which calls for the production of certain documents or tangible things before the Court at a trial, on the date stated in the subpoena.

2. I personally have conducted or supervised compliance by WePay, Inc. with the trial subpoena. To the best of my knowledge, information and belief, based upon due diligence and reasonable inquiry, the documents or tangible things produced hereby or enclosed herewith, and delivered to a law enforcement agent constitute all the documents or tangible things in the possession, custody or control of WePay, Inc. which fall within the terms of the trial subpoena.

3. No documents or tangible things responsive to the trial subpoena have been withheld by WePay, Inc. pursuant to a claim of privilege or otherwise, unless such documents or tangible things are specifically described and referred to by privilege on an attachment to this Affidavit, and incorporated herein as if fully set forth verbatim. No one has directed the destruction of any documents or tangible things responsive to the trial subpoena, and no such documents or tangible things have been destroyed, unless such documents or tangible things are specifically described and referred to by privilege on an attachment to this Affidavit, and incorporated herein as if fully set forth verbatim.

4. The documents made by WePay, Inc. and produced in compliance with the trial subpoena are memoranda, reports, records or data compilations of acts, events, conditions, opinions or

diagnoses that were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters, and that have been kept in the course of WePay, Inc.'s regularly conducted business activity. It has been WePay, Inc.'s regular practice in that business activity to make those memoranda, reports, records, or data compilations. Neither the source of information, nor the method or circumstances of preparation, indicate a lack of trustworthiness for those memoranda, reports, records or data compilations.

5. I understand that the furnishing of these documents or tangible things to counsel for the United States or to WePay, Inc. in response to the trial subpoena, and the execution of this Affidavit, are at the sole discretion and election of myself and WePay, Inc. and are in lieu of personally producing the documents or tangible things before the Court, which right to appear is expressly waived.

6. I am authorized by WePay, Inc. to execute this Affidavit; I have reviewed all its terms and I have had an opportunity to consult with counsel for WePay, Inc. before signing and swearing to it.



Printed Name: 
Custodian of Records for WePay, Inc.

SWORN TO AND SUBSCRIBED before me this 1 day of February, 2013 at

(Location). Palo Alto, CA.



Notary Public
Printed Name: 
Date Commission Expires: 4/30/2016



Exhibit C

US District Court Criminal Docket

**U.S. District - Texas Northern
(Dallas)**

3:12cr317

USA v. Brown

This case was retrieved from the court on Monday, May 01, 2017

Date Filed: 10/03/2012 Class Code: CLOSED
Other Docket: None Closed: yes

Defendants

Name

Barrett Lancaster Brown(1)
[Term: 01/28/2015]

Attorneys

Ahmed Ghappour
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Bar Status: Admitted/In Good Standing
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Dallas, TX 75202
USA
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Fax: 214/767-2886
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Douglas A Morris-FPD

Bar Status: Admitted/In Good Standing
 [Term: 05/07/2013]
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 214/767-2746
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Marlo P Cadeddu
 ATTORNEY TO BE NOTICED; Bar Status:
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Charges**Disposition**

Complaints: 18:875(c) knowingly counseled, commanded, and induced other individuals to make restricted personal information about a Special Agent (SA) of the Federal Bureau of Investigation (FBI) publically available with the intent to threaten, intimidate, and incite the commission of a crime of violence against that SA, in violation of 18 U.S.C. §§ 2 and 119.

Pending: 18:875(c) INTERNET THREATS(1)
Offense Level (Opening): Felony

BOP 48 months as to Count 1 in 3:12cr317-L; and BOP 12 months as to Count 1ss, and BOP 3 months as to Count 2ss in 3:12cr413-L. The BOP terms as to all counts shall run consecutively for a total sentence of 63 months. SR 2 years as to Count 1 in 3:12cr317-L; and SR 1 year as to Counts 1ss and 2ss in 3:12cr413-L. The SR terms as to all counts shall run concurrently. MSA \$100 for Count 1 in 3:12cr317-L; MSA \$100 for Count 1ss and MSA \$25 for Count 2ss in 3:12cr413-L, for a total MSA of \$225. Restitution \$890,250.00.

Terminated: 18:371 (18:119) CONSPIRACY TO MAKE PUBLICLY AVAILABLE RESTRICTED PERSONAL INFORMATION OF AN EMPLOYEE OF THE UNITED STATES(2)

Dismissed

18:115(a)(1)(B) and (b)(4) RETALIATION AGAINST A FEDERAL LAW ENFORCEMENT OFFICER(3)

Dismissed

Offense Level (Terminated): Felony

Case Assigned to: Judge Sam A Lindsay

Name

Sebastiaan Provost
Movant

Attorneys

Jason Drake Flores-Williams
LEAD ATTORNEY;PRO HAC VICE;Bar Status: Not
Admitted;
[Term: 04/19/2013]
Law Firm of Jason Flores-Williams
624 Galisteo #10
Santa Fe, NM 87505
USA
505/467-8288
Fax: 505/467-8288
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U. S. Attorneys

Candina S Heath-DOJ
LEAD ATTORNEY;ATTORNEY TO BE NOTICED;Bar Status: Admitted/In Good Standing
US Attorney's Office
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Dallas, TX 75242-1699
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214/659-8634
Fax: 214/767-2846
Designation: Assistant US Attorney
Email: candina.heath@usdoj.gov

Date	#	Proceeding Text
09/12/2012	1	COMPLAINT as to Barrett Lancaster Brown (1). (mcrd) [3:12-mj-00405-BF *SEALED*] (Entered: 09/13/2012)
09/12/2012	3	MOTION to seal filed by USA as to Barrett Lancaster Brown (mcrd) [3:12-mj-00405-BF *SEALED*] (Entered: 09/13/2012)
09/12/2012	4	ORDER granting 3 Motion to seal as to Barrett Lancaster Brown (1) (Ordered by Magistrate Judge Paul D Stickney on 9/12/2012) (mcrd) (mcrd). [3:12-mj-00405-BF *SEALED*] (Entered: 09/13/2012)
09/13/2012		Arrest of Barrett Lancaster Brown. (mcrd) [3:12-mj-00405-BF *SEALED*] (Entered: 09/14/2012)
09/13/2012	6	(Document Restricted) CJA 23 Financial Affidavit by Barrett Lancaster Brown (mcrd) [3:12-mj-00405-BF *SEALED*] (Entered: 09/14/2012)
09/13/2012	7	MOTION for Pretrial Detention filed by USA as to Barrett Lancaster Brown. (mcrd) [3:12-mj-00405-BF *SEALED*] (Entered: 09/14/2012)
09/13/2012	10	ORDER APPOINTING FEDERAL PUBLIC DEFENDER as to Barrett Lancaster Brown. (Ordered by Magistrate Judge Paul D Stickney on 9/13/2012) (mcrd) [3:12-mj-00405-BF *SEALED*] (Entered: 09/17/2012)
09/17/2012	13	ORDER OF DETENTION as to Barrett Lancaster Brown. (see order) (Ordered by Magistrate Judge Paul D Stickney on 9/17/2012) (mcrd) [3:12-mj-00405-BF *SEALED*] (Entered: 09/17/2012)
09/18/2012	14	NOTICE OF ATTORNEY APPEARANCE by Douglas A Morris appearing for Barrett Lancaster Brown (mcrd) [3:12-mj-00405-BF *SEALED*] (Entered: 09/20/2012)
09/18/2012	15	Arrest Warrant Returned Executed on 09/13/12 as to Barrett Lancaster Brown. (mcrd) [3:12-mj-00405-BF *SEALED*] (Entered: 09/20/2012)
09/18/2012	16	Unopposed MOTION to Determine Competency filed by Barrett Lancaster Brown (mcrd) [3:12-mj-00405-BF *SEALED*] (Entered: 09/20/2012)

- 09/19/2012 17 ORDER as to Barrett Lancaster Brown: Defendant, BARRETT LANCASTER BROWN, has filed a Request for a Hearing to Determine Competency. Said request, pursuant to 18 U.S.c. §§ 4241 (a) and 4241 (e), and 18 U.S.C. §§ 4247(d) and 4247(h) is this 19th day of September, 2012, GRANTED. A hearing will be scheduled for October 18, 2012, at 2:00p.m. (Ordered by Magistrate Judge Paul D Stickney on 9/19/2012) (mcrd) [3:12-mj-00405-BF *SEALED*] (Entered: 09/20/2012)
- 09/26/2012 18 ORDER granting 16 Motion for Psychiatric Exam as to Barrett Lancaster Brown (1). It is hereby ORDERED that Defendant Barrett Lancaster Brown be remanded to the custody of the United States Attorney General for placement in a suitable facility where he may be evaluated pursuant to §§ 4241(a) and (b) and §§ 4247(b) and (c) for purposes of preparing a report and that such a report be written regarding his mental competency to stand trial. Custody shall not exceed sixty (60) days for evaluation of this matter. (see order) (Ordered by Magistrate Judge Paul D Stickney on 9/26/2012) (mcrd) Modified on 9/26/2012 (mcrd). (dist) [3:12-mj-00405-BF *SEALED*] (Entered: 09/26/2012)
- 10/03/2012 19 INDICTMENT as to Barrett Lancaster Brown (1) count(s) 1, 2, 3. (twd) (Main Document 19 replaced on 10/5/2012) (skt). (Entered: 10/04/2012)
- 10/15/2012 21 UNOPPOSED NOTICE OF WAIVER OF ARRAIGNMENT HEARING AND ENTRY OF PLEA OF NOT GUILTY by Barrett Lancaster Brown (Morris, Douglas) Modified on 10/16/2012 (rlw). (Entered: 10/15/2012)
- 10/17/2012 Hearings terminated re: 17 ORDER as to Barrett Lancaster Brown: Defendant, BARRETT LANCASTER BROWN, has filed a Request for a Hearing to Determine Competency. Said request, pursuant to 18 U.S.c. §§ 4241 (a) and 4241 (e), and 18 U.S.C. §§ 4247(d) and 4247(h) is this 19th day of September, 2012, GRANTED. A hearing will be scheduled for October 18, 2012, at 2:00p.m. (mcrd) (Entered: 10/17/2012)
- 10/17/2012 23 ORDER accepting 21 Defendant's Unopposed Notice of Waiver of Arraignment Hearing and Entry of Plea of Not Guilty as to Barrett Lancaster Brown. A plea of "Not Guilty" will be entered on his behalf. (Ordered by Judge Sam A Lindsay on 10/17/2012) (skt) (Entered: 10/18/2012)
- 10/18/2012 22 SCHEDULING ORDER as to Barrett Lancaster Brown: Jury Trial set for 12/10/2012 09:00 AM in Courtroom 1546 before Judge Sam A Lindsay. Motions due by 11/7/2012. Responses due by 11/21/2012. (Ordered by Judge Sam A Lindsay on 10/18/2012) (chmb) (Entered: 10/18/2012)
- 01/14/2013 25 ORDER SETTING HEARING: Competency Hearing set for 1/30/2013 10:00 AM before Judge Sam A Lindsay. The court directs the United States Marshal to bring Defendant, now in custody at the Mansfield Law Enforcement Center, Mansfield Texas, before this court to be available for the hearing. (Ordered by Judge Sam A Lindsay on 1/14/2013) (ndt) (ndt). (Entered: 01/14/2013)
- 01/30/2013 ELECTRONIC Minute Entry for proceedings held before Judge Sam A Lindsay: Competency Hearing as to Barrett Lancaster Brown held on 1/30/2013....Order to follow. Attorney Appearances: AUSA - Candina Heath; Defense - Douglas Morris. (Court Reporter: Charyse Crawford) (Exhibits admitted - Court's Exhibit #1....placed in court's copy file) Time in Court - 0:50. (chmb) (Entered: 01/30/2013)
- 02/04/2013 30 ORDER as to Barrett Lancaster Brown in criminal cases 3:12-CR-317-L; 3:12-CR-413-L; and 3:13-CR-030-L. On 1/30/2013, the court held a hearing pursuant to 18 U.S.C. §§ 4241(e) and 4247(d) to determine Defendant Barrett Lancaster Brown's competency to stand trial in his criminal cases. Based on the court's observations at the hearing, the statements of Mr. Morris, the statements of Mr. Brown, and the findings and conclusions set forth in the Psychological Evaluation, the court determines that Mr. Brown is able to understand the nature and consequences of the proceedings against him and that he can properly assist his attorney in preparing a defense to the charges against him in all three cases. (Ordered by Judge Sam A Lindsay on 2/4/2013) (ykp) (Entered: 02/05/2013)
- 02/04/2013 31 AMENDED CRIMINAL TRIAL SCHEDULING ORDER as to Barrett Lancaster Brown: Jury Trial reset for 4/8/2013 09:00 AM before Judge Sam A Lindsay. Motions due by

- 2/26/2013. Responses due by 3/12/2013. (Ordered by Judge Sam A Lindsay on 2/4/2013) (ykp) (Entered: 02/05/2013)
- 02/26/2013 37 MOTION for Reciprocal Discovery filed by USA as to Barrett Lancaster Brown (Heath-DOJ, Candina) Modified on 2/27/2013 (skt). (Entered: 02/26/2013)
- 02/26/2013 38 MOTION for Notice Pursuant to Fed. R. Crim. P. 12.2 filed by USA as to Barrett Lancaster Brown (Heath-DOJ, Candina) Modified on 2/27/2013 (skt). (Entered: 02/26/2013)
- 03/04/2013 39 Unopposed MOTION to Continue filed by Barrett Lancaster Brown (Morris, Douglas) (Entered: 03/04/2013)
- 03/06/2013 40 ORDER granting 39 Motion to Continue as to Barrett Lancaster Brown (1) Motions due by 6/21/2013. Responses due by 7/5/2013 Jury Trial reset for 9/3/2013 09:00 AM in Courtroom 1546 before Judge Sam A Lindsay. (Ordered by Judge Sam A Lindsay on 3/6/2013) (chmb) (Entered: 03/06/2013)
- 04/02/2013 42 ***WITHDRAWN PER 53 ORDER***Third Party MOTION to Quash and Intervene filed by Barrett Lancaster Brown (Flores-Williams, Jason) Modified on 4/19/2013 (ctf). (Entered: 04/02/2013)
- 04/02/2013 43 MOTION to Dismiss Motion to Intervene and Quash Subpoena filed by USA as to Barrett Lancaster Brown (Heath-DOJ, Candina) (Entered: 04/02/2013)
- 04/03/2013 44 Application for Admission Pro Hac Vice with Cert. of Good Standing for Attorney Jason Drake Flores-Williams (Filing fee \$25; Receipt number 65566) filed by Barrett Lancaster Brown. (twd) (Entered: 04/04/2013)
- 04/04/2013 45 ELECTRONIC ORDER granting 44 Application for Admission Pro Hac Vice of Jason Flores-Williams. If not already done, Applicant must register as an ECF User within 14 days (LCrR 49.2(g)). as to Barrett Lancaster Brown (1) (Ordered by Judge Sam A Lindsay on 4/4/2013) (chmb) (Entered: 04/04/2013)
- 04/13/2013 46 MOTION to Dismiss Motion to Intervene and Quash Subpoena filed by USA as to Barrett Lancaster Brown re: 42 Third Party MOTION to Quash and Intervene. (Attachments: # 1 Online, # 2 Online, # 3 Online, # 4 Online (Entered: 04/13/2013)
- 04/14/2013 47 MOTION for Leave to File Reply filed by Sebastiaan Provost as to Barrett Lancaster Brown (Flores-Williams, Jason) (Entered: 04/14/2013)
- 04/15/2013 48 (Document Restricted) CJA 23 Financial Affidavit by Barrett Lancaster Brown. (ndt) (Entered: 04/16/2013)
- 04/16/2013 49 ORDER as to Barrett Lancaster Brown re: 48 CJA 23 Financial Affidavit. The court refers this matter to United States Magistrate Judge Paul D. Stickney for review and any determination to be made regarding his appointment of counsel. (Ordered by Judge Sam A Lindsay on 4/16/2013) (ctf) (Entered: 04/16/2013)
- 04/17/2013 50 ORDER as to Barrett Lancaster Brown: Status Conference set for 5/1/2013 at 09:30 AM before Magistrate Judge Paul D Stickney. (Ordered by Magistrate Judge Paul D Stickney on 4/17/2013) (cea) (Entered: 04/17/2013)
- 04/17/2013 52 ***VACATED PER 53 ORDER*** ORDER granting non-party Sebastiaan Provost's 47 Motion for Leave to Reply as to Barrett Lancaster Brown. Sebastiaan Provost may file a reply to the government's Motion to Dismiss Motion to Intervene and Quash Subpoena by 4/29/2013. (Ordered by Judge Sam A Lindsay on 4/17/2013) (ctf) Modified on 4/19/2013 (ctf). (Entered: 04/18/2013)
- 04/18/2013 51 MOTION to Dismiss Motion To Intervene filed by Sebastiaan Provost as to Barrett Lancaster Brown (Flores-Williams, Jason) (Entered: 04/18/2013)
- 04/19/2013 53 ORDER as to Barrett Lancaster Brown granting 51 non-party Sebastiaan Provost's Motion to Dismiss. Non-party Sebastiaan Provost's 42 Motion to Intervene and Quash Subpoena is hereby withdrawn; denying as moot 43 and 46 Government's Motions to Dismiss Motion to Intervene and Quash Subpoena; vacating the court's 52 order granting non-party Sebastiaan Provost's Motion for Leave to Reply; and denying as moot Non-party Sebastiaan Provost's 47 Motion for Leave to File Reply. (Ordered by Judge Sam A Lindsay on 4/19/2013) (ctf) (Entered: 04/19/2013)

- 04/30/2013 54 ORDER RESETTING HEARING as to Barrett Lancaster Brown: Status Conference reset for 5/1/2013 11:30 AM before Magistrate Judge Paul D Stickney. (Ordered by Magistrate Judge Paul D Stickney on 4/30/2013) (axm) (Entered: 04/30/2013)
- 05/01/2013 55 ELECTRONIC Minute Entry for proceedings held before Magistrate Judge Paul D Stickney: Status Conference as to Barrett Lancaster Brown held on 5/1/2013. Order to enter. Attorney Appearances: AUSA - Candy Heath; Defense - Doug Morris. (Court Reporter: Digital File) (No exhibits) Time in Court - :11. (mcrd) (Entered: 05/01/2013)
- 05/01/2013 56 MOTION to Substitute Attorney. Added attorney Ahmed Ghappour for Barrett Lancaster Brown. (cea) (Entered: 05/01/2013)
- 05/01/2013 57 MOTION to Substitute Attorney. Added attorney Charles Swift as to Barrett Lancaster Brown. (cea) (Entered: 05/01/2013)
- 05/01/2013 58 NOTICE OF ATTORNEY APPEARANCE by Marlo P Cadeddu appearing for Barrett Lancaster Brown. (cea) (Entered: 05/01/2013)
- 05/06/2013 59 Application for Admission Pro Hac Vice with Cert. of Good Standing for Attorney Ahmed Ghappour (Filing fee \$25; Receipt number 0539-5283547) filed by Barrett Lancaster Brown (Ghappour, Ahmed) (Entered: 05/06/2013)
- 05/06/2013 60 ELECTRONIC ORDER granting 59 Application for Admission Pro Hac Vice of Ahmed Ghappour. If not already done, Applicant must register as an ECF User within 14 days (LCrR 49.2(g)). as to Barrett Lancaster Brown (1) (Ordered by Judge Sam A Lindsay on 5/6/2013) (chmb) (Entered: 05/06/2013)
- 05/06/2013 61 Application for Admission Pro Hac Vice with Cert. of Good Standing for Attorney Charles D. Swift (Filing fee \$25; Receipt number 0539-5285628) filed by Barrett Lancaster Brown (Attachments: # 1 Online) (Entered: 05/06/2013)
- 05/07/2013 62 ELECTRONIC ORDER granting 61 Application for Admission Pro Hac Vice of Charles Davidson Swift. If not already done, Applicant must register as an ECF User within 14 days (LCrR 49.2(g)). as to Barrett Lancaster Brown (1) (Ordered by Judge Sam A Lindsay on 5/7/2013) (chmb) (Entered: 05/07/2013)
- 05/07/2013 63 ORDER granting 56 , 57 Defendant's Motions to Substitute Attorney as to Barrett Lancaster Brown. Accordingly, the court allows Douglas Morris to withdraw as counsel for Defendant Barrett Lancaster Brown, and he is relieved of any further obligation to or representation of Defendant in the above cases. Mr. Charles Davidson Swift and Mr. Ahmed Ghappour are hereby substituted as new counsel for Defendant Barrett Lancaster Brown. (Ordered by Judge Sam A Lindsay on 5/7/2013) (axm) (Entered: 05/07/2013)
- 05/30/2013 64 ORDER DENYING GOVERNMENT'S MOTION TO DIRECT FUNDS BE PAID as to Barrett Lancaster Brown. (Ordered by Magistrate Judge Paul D Stickney on 5/30/2013) (skt) (Entered: 05/30/2013)
- 06/18/2013 65 Unopposed MOTION for Protective Order filed by USA as to Barrett Lancaster Brown (Attachments: # 1 Online) (Entered: 06/18/2013)
- 06/20/2013 66 AGREED PROTECTIVE ORDER as to Barrett Lancaster Brown (1). (Ordered by Judge Sam A Lindsay on 6/20/2013) (axm) (Entered: 06/20/2013)
- 06/21/2013 67 Agreed MOTION to Continue Pretrial Deadlines filed by Barrett Lancaster Brown (Ghappour, Ahmed) (Entered: 06/21/2013)
- 07/03/2013 68 ORDER granting 67 Motion to Continue Pretrial Deadlines as to Barrett Lancaster Brown (1): Motions due by 8/9/2013. Responses due by 8/23/2013. (Ordered by Judge Sam A Lindsay on 7/3/2013) (axm) (Entered: 07/03/2013)
- 07/16/2013 73 Unopposed MOTION to Unseal Document (Recording or Transcription of Probable Cause and Detention Hearing) and Apply the Provisions of the Agreed Protective Order filed by USA as to Barrett Lancaster Brown (Heath-DOJ, Candina) (Entered: 07/16/2013)
- 07/17/2013 74 ORDER granting Government's 73 Unopposed Motion to Conditionally Unseal as to Barrett Lancaster Brown (1). (Ordered by Judge Sam A Lindsay on 7/17/2013) (tln) (Entered: 07/17/2013)

07/31/2013	78	MOTION to Continue Trial and Pretrial Dates filed by Barrett Lancaster Brown (Attachments: # 1 Online, # 2 Online, # 3 Online (Entered: 07/31/2013))
08/01/2013	79	MOTION for Disclosure / Permit Defense Counsel Access to Document 1 filed by USA as to Barrett Lancaster Brown (Heath-DOJ, Candina) (Entered: 08/01/2013)
08/05/2013	80	ORDER granting 79 Motion to Permit Defense Counsel Access to Document 1 as to Barrett Lancaster Brown (1). (Ordered by Magistrate Judge Paul D Stickney on 8/5/2013) (tln) (Entered: 08/05/2013)
08/07/2013	81	RESPONSE AND OBJECTION by USA as to Barrett Lancaster Brown re: 78 MOTION to Continue Trial and Pretrial Dates (Heath-DOJ, Candina) (Entered: 08/07/2013)
08/08/2013	82	MOTION for Leave to File Reply filed by Barrett Lancaster Brown with Brief/Memorandum in Support. (Attachments: # 1 Online, # 2 Online (Entered: 08/08/2013))
08/09/2013	83	ORDER granting 82 Motion for Leave to File Reply as to Barrett Lancaster Brown (1). The reply may not exceed seven pages. (Ordered by Judge Sam A Lindsay on 8/9/2013) (tln) (Entered: 08/09/2013)
08/09/2013	84	REPLY filed by Barrett Lancaster Brown re: 78 MOTION to Continue Trial and Pretrial Dates (Attachments: # 1 Online (Entered: 08/09/2013))
08/18/2013	85	Waiver of Speedy Trial by Barrett Lancaster Brown (Attachments: # 1 Online (Entered: 08/18/2013))
08/19/2013	86	ORDER RESETTING TRIAL granting 78 Motion to Continue as to Barrett Lancaster Brown (1). Jury Trial reset for 4/28/2014 at 09:00 AM before Judge Sam A Lindsay. Motions due by 1/31/2014. Responses due by 2/14/2014. (Ordered by Judge Sam A Lindsay on 8/19/2013) (cea) (Entered: 08/19/2013)
08/21/2013	88	ORDER as to Barrett Lancaster Brown: In the Government's 81 Opposition to Continuance, filed August 7, 2013, it requested that the court limit pretrial publicity and instruct the parties to refrain from making statements to the media about the case other than those matters that can be found in public records. The court believes a hearing on this matter is necessary. Accordingly, the court sets a hearing for this matter on Wednesday, 9/04/2013, at 10:00 a.m. before Judge Sam A Lindsay. (Ordered by Judge Sam A Lindsay on 8/21/2013) (twd) (Entered: 08/21/2013)
09/04/2013	90	Brief/Memorandum in Support by Barrett Lancaster Brown re 84 Reply IN OPPOSITION TO GOVERNMENTS REQUEST FOR A GAG ORDER (Attachments: # 1 Online, # 2 Online, # 3 Online, # 4 Online, # 5 Online, # 6 Online, # 7 Online, # 8 Online, # 9 Online, # 10 Online, # 11 Online, # 12 Online, # 13 Online, # 14 Online (Entered: 09/04/2013))
09/04/2013	91	EXHIBIT LIST by USA as to Barrett Lancaster Brown (Heath-DOJ, Candina) (Entered: 09/04/2013)
09/04/2013	92	TRIAL BRIEF by USA as to Barrett Lancaster Brown (Heath-DOJ, Candina) (Entered: 09/04/2013)
09/04/2013	93	***VACATED PER 112 ORDER***AGREED ORDER RE: EXTRAJUDICIAL STATEMENTS as to Barrett Lancaster Brown. (Ordered by Judge Sam A Lindsay on 9/4/2013) (skt) Modified on 4/23/2014 (skt). (Entered: 09/04/2013)
09/04/2013		ELECTRONIC Minute Entry for proceedings held before Judge Sam A Lindsay: Hearing Re: Request for Gag Order as to Barrett Lancaster Brown held on 9/4/2013. Attorney Appearances: AUSA - Candina Heath; Defense - Ahmed Ghappour, Charles Swift and Marlo Cadeddu. (Court Reporter: Charyse Crawford) (Exhibits admitted - Government's exhibits 1,2,10,11,13,15,46 placed in court's copy file) Time in Court - 3:15. (chmb) (Entered: 09/04/2013)
01/31/2014	98	***WITHDRAWN PER 119 ORDER***First MOTION to Dismiss Indictment, First MOTION to Strike Surplusage () filed by Barrett Lancaster Brown with Brief/Memorandum in Support. (Ghappour, Ahmed) Modified on 5/19/2014 (skt). (Entered: 01/31/2014)
02/14/2014	99	***UNSEALED PER 112 ORDER***Motion to Seal the Government's Opposition to Browns Motion to Dismiss the Indictment (Sealed pursuant to motion to seal) as to

Barrett Lancaster Brown filed by USA. (Attachments: # 1 Online (Entered: 02/14/2014))

02/18/2014 100 ***UNSEALED PER 112 ORDER***ORDER granting 99 Motion to Seal The Government's Opposition as to Barrett Lancaster Brown (1): Government's Opposition to Defendant Brown's Motion to Dismiss the Indictment shall be filed under seal. (Counsel granted leave to file a sealed pleading under LCrR 55.3 is reminded to electronically file the amended pleading.) (Ordered by Judge Sam A Lindsay on 2/18/2014) (twd) (Main Document 100 replaced on 2/18/2014) (twd). Modified on 4/24/2014 (skt). (Entered: 02/18/2014)

02/18/2014 101 ***UNSEALED PER 112 ORDER***RESPONSE to 98 First MOTION to Dismiss Indictment, First MOTION to Strike Surplusage (Sealed pursuant to order dated 2/18/2014) as to Barrett Lancaster Brown filed by USA. (Heath-DOJ, Candina) Modified title and termed motion on 2/19/2014 (awc). Modified on 4/24/2014 (skt). (Entered: 02/18/2014)

02/21/2014 102 MOTION for Leave to File Reply filed by Barrett Lancaster Brown with Brief/Memorandum in Support. (Attachments: # 1 Online (Entered: 02/21/2014))

02/25/2014 103 ORDER granting 102 Motion for Leave to File Reply as to Barrett Lancaster Brown (1). Replies due by 3/7/2014 re: 98 Defendant's Motion to Dismiss. (Ordered by Judge Sam A Lindsay on 2/25/2014) (axm) (Entered: 02/25/2014)

03/31/2014 104 ***UNSEALED PER 112 ORDER***Government's Agreed Motion to Seal the Plea Agreement and the Factual Resume (Sealed pursuant to motion to seal) as to Barrett Lancaster Brown filed by USA. (Attachments: # 1 Online, # 2 Online (Entered: 03/31/2014))

04/02/2014 106 Order in case as to Barrett Lancaster Brown granting 104 Agreed Motion to Seal the Plea Agreement and the Factual Resume. (Counsel granted leave to file a sealed pleading under LCrR 55.3 is reminded to electronically file the sealed pleading.) (Ordered by Judge Sam A Lindsay on 4/2/2014) (twd) Modified to remove restriction per DJ chambers on 4/3/2014 (gmg). (Entered: 04/02/2014)

04/02/2014 107 ELECTRONIC Minute Entry for proceedings held before Judge Sam A Lindsay: Telephone Conference as to Barrett Lancaster Brown held on 4/2/2014. Attorney Appearances: AUSA - Candina Heath; Defense - Ahmed Ghappour. (Court Reporter: Charyse Crawford) (No exhibits) Time in Court - 0:10. (chmb) (Entered: 04/02/2014)

04/02/2014 108 ***UNSEALED PER 112 ORDER***Plea Agreement as to Barrett Lancaster Brown filed by Defendant, USA. (Notice: Any required service of this document is the responsibility of the filer.) (tln) Modified on 4/24/2014 (skt). (Entered: 04/03/2014)

04/02/2014 109 ***UNSEALED PER 112 ORDER***Factual Resume as to Barrett Lancaster Brown filed by Defendant, USA. (Notice: Any required service of this document is the responsibility of the filer.) (tln) Modified on 4/24/2014 (skt). (Entered: 04/03/2014)

04/03/2014 110 ELECTRONIC NOTICE OF HEARING as to Barrett Lancaster Brown: Rearrangement set for 4/29/2014 09:00 AM in US Courthouse, Courtroom 1620, 1100 Commerce St., Dallas, TX 75242-1310 before Magistrate Judge Paul D Stickney. (chmb) (Entered: 04/03/2014)

04/21/2014 111 Unopposed MOTION to Vacate Agreed Order Re: Extrajudicial Statements, Unopposed MOTION to Unseal Document 99, 100, 101, 104, 108, 109 () filed by USA as to Barrett Lancaster Brown (Heath-DOJ, Candina) (Entered: 04/21/2014)

04/23/2014 112 ORDER granting 111 Government's Unopposed Motion to Vacate the Agreed Order Re: Extrajudicial Statements and to Unseal Documents as to Barrett Lancaster Brown (1). (Ordered by Judge Sam A Lindsay on 4/23/2014) (skt) (Entered: 04/23/2014)

04/23/2014 Documents unsealed per 112 as to Barrett Lancaster Brown 108 , 99 , 109 , 101 , 104 , and 100 . (svc) (Entered: 04/25/2014)

04/29/2014 113 ELECTRONIC Minute Entry for proceedings held before Magistrate Judge Paul D Stickney: Rearrangement Hearing as to Barrett Lancaster Brown held on 4/29/2014. Plea entered by Barrett Lancaster Brown (1) Guilty Count 1. Attorney Appearances:

AUSA - Candina Heath; Defense - Ahmed Ghappour, Marlo Caddedu. (Court Reporter: Shawn McRoberts) (No exhibits) Time in Court - :08. (mcrd) (Entered: 04/29/2014)

04/29/2014 114 NOTICE/CONSENT REGARDING ENTRY OF A PLEA OF GUILTY as to Barrett Lancaster Brown. (twd) (Entered: 04/29/2014)

04/29/2014 115 Report and Recommendation on Guilty Plea as to Barrett Lancaster Brown. re: 114 Consent Regarding Entry of a Plea of Guilty. (Ordered by Magistrate Judge Paul D Stickney on 4/29/2014) (twd) (Entered: 04/29/2014)

05/14/2014 116 Order Accepting 115 Report and Recommendation on Guilty Plea re: 115 Report and Recommendation on Guilty Plea as to Barrett Lancaster Brown. (Ordered by Judge Sam A Lindsay on 5/14/2014) (chmb) (Entered: 05/14/2014)

05/14/2014 117 ***VACATED PER 120 ORDER***Sentencing Scheduling Order as to Barrett Lancaster Brown: Presentence Investigation Report due by 6/27/2014. Objections to Presentence Investigation Report due by 7/11/2014. Presentence Investigation Addendum due by 7/18/2014. Objections to Presentence Investigation Addendum due by 7/25/2014. Sentencing set for 8/18/2014 01:30 PM in Courtroom 1546 before Judge Sam A Lindsay. (Ordered by Judge Sam A Lindsay on 5/14/2014) (chmb) Modified on 6/19/2014 (skt). (Entered: 05/14/2014)

05/15/2014 118 MOTION to Withdraw Document 98 First MOTION to Dismiss IndictmentFirst MOTION to Strike Surplusage filed by Barrett Lancaster Brown with Brief/Memorandum in Support. (Ghappour, Ahmed) (Entered: 05/15/2014)

05/19/2014 119 ORDER granting 118 Defendant's Unopposed Motion to Withdraw Defendant's Motions to Dismiss the Indictment as to Barrett Lancaster Brown (1). (Ordered by Judge Sam A Lindsay on 5/19/2014) (skt) (Entered: 05/19/2014)

06/19/2014 120 AMENDED SENTENCING SCHEDULING ORDER as to Barrett Lancaster Brown: Presentence Investigation Report due by 8/8/2014. Objections to Presentence Investigation Report due by 8/22/2014. Presentence Investigation Addendum due by 8/29/2014. Objections to Presentence Investigation Addendum due by 9/5/2014. Sentencing set for 10/6/2014 01:30 PM before Judge Sam A Lindsay. (Ordered by Judge Sam A Lindsay on 6/19/2014) (skt) (Entered: 06/19/2014)

08/21/2014 122 Unopposed MOTION to Continue OBJECTION DEADLINE BY ONE BUSINESS DAY filed by Barrett Lancaster Brown with Brief/Memorandum in Support. (Ghappour, Ahmed) (Entered: 08/21/2014)

08/25/2014 123 ORDER granting 122 Motion to Continue as to Barrett Lancaster Brown (1). Objections to Presentence Investigation Report due by 8/25/2014. Objections to Presentence Investigation Addendum due by 9/9/2014. Presentence Investigation Addendum due by 9/2/2014. All other matters set forth in the court's June 19, 2014 Amended Scheduling Order remain unchanged. (Ordered by Judge Sam A Lindsay on 8/25/2014) (aaa) (Entered: 08/25/2014)

08/26/2014 126 MOTION to Amend/Correct 108 Sealed and/or Ex Parte Document (Add Attachment A) filed by USA as to Barrett Lancaster Brown (Attachments: # 1 Online (Entered: 08/26/2014)

08/29/2014 128 ORDER granting 126 Motion to Amend/Correct as to Barrett Lancaster Brown (1) (Ordered by Judge Sam A Lindsay on 8/29/2014) (jrr) (Entered: 08/29/2014)

09/16/2014 131 MOTION to Continue Sentencing Hearing filed by USA as to Barrett Lancaster Brown (Heath-DOJ, Candina) (Entered: 09/16/2014)

09/17/2014 132 ORDER granting 131 Motion to Continue as to Barrett Lancaster Brown (1). Sentencing reset for 11/24/2014 09:00 AM before Judge Sam A Lindsay. Counsel are directed to advise all interested persons that this matter has been reset. All other portions of the court's original Sentencing Scheduling Order remain in effect. (Ordered by Judge Sam A Lindsay on 9/17/2014) (tln) (Entered: 09/17/2014)

11/20/2014 134 ORDER RESETTING SENTENCING HEARING as to Barrett Lancaster Brown: Sentencing set for 12/16/2014 09:00 AM before Judge Sam A Lindsay. (Ordered by Judge Sam A Lindsay on 11/20/2014) (skt) (Entered: 11/20/2014)

12/11/2014 135

- MOTION to Unseal Document Sentencing Memorandum filed by Barrett Lancaster Brown (Cadeddu, Marlo) (Entered: 12/11/2014)
- 12/12/2014 136 ORDER as to Barrett Lancaster Brown: Before the court is the 135 Motion to Unseal Sentencing Memorandum and Exhibits, filed 12/11/2014, by Defendant. The Government shall respond to the motion by close of business today. (Ordered by Judge Sam A Lindsay on 12/12/2014) (tln) (Entered: 12/12/2014)
- 12/12/2014 137 ORDER: The Government contacted the court's courtroom deputy this afternoon to request an extension to Monday morning, 12/15/2014, to file its response to the 135 Motion to Unseal Sentencing Memorandum and Exhibits, filed 12/11/2014, by Defendant. Given the timing of Defendant's motion, the court determines that Defendant will not suffer any legal prejudice if the brief extension requested by the Government is granted. Accordingly, the court grants the Government's request to extend its deadline to respond to the Motion to Unseal Sentencing Memorandum and Exhibits and extends the Government's response deadline to 10 a.m., 12/15/2014. (Ordered by Judge Sam A Lindsay on 12/12/2014) (tln) (Entered: 12/12/2014)
- 12/13/2014 138 RESPONSE by USA as to Barrett Lancaster Brown re: 135 MOTION to Unseal Document Sentencing Memorandum (Attachments: # 1 Online, # 2 Online (Entered: 12/13/2014)
- 12/17/2014 139 ORDER as to Barrett Lancaster Brown: As discussed during the sentencing hearing in this case on 12/16/2014, the sentencing hearing in this case is continued to and shall reconvene on 1/22/2015 at 09:00 AM before Judge Sam A Lindsay. To avoid further delays in Defendant Barrett Lancaster Brown's ("Defendant") sentencing, the court orders as follows. (Ordered by Judge Sam A Lindsay on 12/17/2014) (twd) (Entered: 12/17/2014)
- 12/17/2014 140 ELECTRONIC Minute Entry for proceedings held before Judge Sam A Lindsay: Sentencing held on 12/16/2014. Sentencing will continue 1/22/15, at 9:00 a.m. Attorney Appearances: AUSA - Candina Heath; Defense - Ahmed Ghappour, Charles Swift, Marlo Cadeddu. (Court Reporter: Charyse Crawford) (Exhibits admitted - Govt exhibits 1-61, minus 10 and 44 (retained by the govt), Dft exhibit 1 (placed in court's file) Time in Court - 7:05. (chmb) Modified on 12/17/2014 (chmb). Modified on 12/22/2014 (chmb). (Entered: 12/17/2014)
- 01/23/2015 145 ELECTRONIC Minute Entry for proceedings held before Judge Sam A Lindsay: Sentencing held on 1/22/2015 for Barrett Lancaster Brown (1), Count(s) 1, Committed to the BOP for a term of 48 mos; SR-2 years, to run concurrently with the terms in 3:12-cr-413-L; SA-\$100; Count(s) 2, 3, Dismissed. Indictment for case 3:13-cr-30-L DISMISSED. Attorney Appearances: AUSA - Candina Heath; Defense - Marlo Cadeddu, Charles Swift. (Court Reporter: Charyse Crawford) (No exhibits - Govt. Exhibits 62 and 63 were made part of the record) Time in Court - 2:30. (chmb) Modified on 1/23/2015 (chmb). (Entered: 01/23/2015)
- 01/28/2015 146 ORDER as to Barrett Lancaster Brown: Although the court explained on the record the manner in which it calculated the advisory guidelines during the sentencing hearing in this case on 1/16/2015, the court files this order to reflect the action it took, which is fully reflected in the transcript of the hearing. The court also addresses the issue raised at the end of the hearing regarding the return of Defendant Barrett Brown's ("Defendant") copy of the Declaration of Independence. Thus, notwithstanding the agreement between the parties, the court declines to accept the portion of the Plea Agreement that requires Defendant to forfeit his copy of the Declaration of Independence. Accordingly, the court orders the Government to return Defendant's copy of the Declaration of Independence to his counsel within ten (10) days of the date of this order. (Ordered by Judge Sam A Lindsay on 1/28/2015) (tln) (Entered: 01/28/2015)
- 01/28/2015 147 JUDGMENT as to Barrett Lancaster Brown (1), BOP 48 months as to Count 1 in 3:12cr317-L; and BOP 12 months as to Count 1ss, and BOP 3 months as to Count 2ss in 3:12cr413-L. The BOP terms as to all counts shall run consecutively for a total sentence of 63 months. SR 2 years as to Count 1 in 3:12cr317-L; and SR 1 year as to Counts 1ss and 2ss in 3:12cr413-L. The SR terms as to all counts shall run concurrently. MSA \$100 for Count 1 in 3:12cr317-L; MSA \$100 for Count 1ss and MSA \$25 for Count 2ss in 3:12cr413-L, for a total MSA of \$225. Restitution

\$890,250.00. Count(s) 2, 3, Dismissed Pursuant to LR 79.2 and LCrR 55.2, exhibits may be claimed during the 60-day period following final disposition (to do so, follow the procedures found at www.txnd.uscourts.gov/CourtRecords). The clerk will discard exhibits that remain unclaimed after the 60-day period without additional notice. (Clerk to notice any party not electronically noticed.) (Ordered by Judge Sam A Lindsay on 1/28/2015) (twd) (Entered: 01/29/2015)

02/11/2015 149 MOTION to Amend/Correct 147 Judgment,,,,, filed by Barrett Lancaster Brown (Swift, Charles) (Entered: 02/11/2015)

02/25/2015 150 REPLY filed by USA as to Barrett Lancaster Brown re: 149 MOTION to Amend/Correct 147 Judgment (Heath-DOJ, Candina) (Entered: 02/25/2015)

03/10/2015 151 ORDER denying 149 MOTION to Amend/Correct 147 Judgment, as to Barrett Lancaster Brown (1). (Ordered by Judge Sam A Lindsay on 3/10/2015) (jrr) (Entered: 03/10/2015)

Exhibit D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA	§	<u>FILED UNDER SEAL</u>
	§	
v.	§	No. 3:12-CR-317-L
	§	No. 3:12-CR-413-L
BARRETT LANCASTER BROWN	§	No. 3:13-CR-030-L

GOVERNMENT'S MOTION TO DIRECT FUNDS BE PAID

1. The United States, by and through the undersigned Assistant United States Attorney, respectfully files this Motion pursuant to 18 U.S.C. §3006A and requests that this Honorable Court issue an order (1) directing Barrett Brown and Karen Lancaster¹ to pay to the clerk of the United States District Court for the Northern District of Texas any and all funds at www.wepay.com or in the related [REDACTED] Bank account, held on behalf of Barrett Brown, and held specifically to pay for Brown's legal representation in the above matter; (2) directing the clerk of the United States District Court for the Northern District of Texas to apply said funds to the cost of the representation provided to Barrett Brown by the Office of the Federal Public Defender in the Northern District of Texas, (3) authorizing or ordering the United States Attorney to institute contempt proceedings against Barrett Brown or Karen Lancaster, if either one fails to turn over the funds on or before a date certain; and (4) sealing this motion, and any response filed thereto.

¹ Karen Lancaster also was known as Karen Lancaster Brown and currently is known as Karen Lancaster McCutchin. She is the mother of Barrett Brown, and she resides in Dallas, Dallas County, Texas.

PROCEDURAL BACKGROUND

2. On or about September 12, 2012, Brown was arrested on a Criminal Complaint, case number 3:12-MJ-405-BF, for threatening law enforcement.

3. On or about September 12, 2012, Brown initially appeared before United States Magistrate Judge Paul D. Stickney. Magistrate Judge Stickney reviewed Brown's financial affidavit² and determined that Brown could not afford to hire an attorney. Magistrate Judge Stickney appointed the Office of the Federal Public Defender for the Northern District of Texas to represent Brown. Since that time the Federal Public Defender has represented Brown in all three of the above titled and numbered causes.

4. On or about October 3, 2012, a federal grand jury returned a true bill of Indictment in case number 3:12-CR-317-L charging Brown with the threats to law enforcement as alleged in the Criminal Complaint.

5. On or about December 4, 2012, a federal grand jury returned a true bill of Indictment in case number 3:12-CR-413-B charging Brown with trafficking in stolen authentication features, access device fraud, and aggravated identity theft.

6. On or about January 23, 2013, a federal grand jury returned a true bill of Indictment in case number 3:13-CR-030-B charging Brown with obstructing justice by concealing evidence during the execution of a search warrant.

7. On or about January 23, 2013, case number 3:12-CR-413-B was transferred to this Honorable Court (3:12-CR-413-L). On or about January 29, 2013, case number

2 The government does not have access to the sealed financial affidavit.

3:13-CR-030-B was transferred to this Honorable Court (3:13-CR-030-L).

AUTHORITIES

8. 18 U.S.C. §3006A(f) authorizes the Court to direct payment of funds found by the Court to be available for payment from a person furnished representation under 18 U.S.C. § 3006A to (a) the defender organization providing the person's representation or (b) the Court for deposit in the Treasury as a reimbursement to the appropriation, current at the time of payment, to carry out the provisions of §3006A. Specifically, 18 U.S.C.

§ 3006A(c) provides that:

If at any time after the appointment of counsel the United States magistrate or the court finds that the person (for whom counsel was appointed) is financially able to obtain counsel *or to make partial payment for the representation, it may terminate the appointment of counsel or authorize payment as provided in subsection (f), as the interests of justice may dictate.*

(Emphasis added).

18 U.S.C. § 3006A(f) provides that:

Whenever the United States magistrate or the court finds that *funds are available for payment from or on behalf of a person furnished representation*, it may authorize or direct that such funds be paid . . . to the court for deposit in the Treasury as a reimbursement to the appropriation, current at the time of payment, to carry out the provisions of this section.

(Emphasis added).

9. In *United States v. Durka*, 490 F.2d 478 (7th Cir.1973), the court held that under 18 U.S.C. § 3006A, the district court had jurisdiction to order a defendant found financially able to pay back funds expended on appointed counsel even though the defendant had been acquitted three months earlier and that three months was not an unreasonable length of

time within which "to ascertain the expenses of defendant's representation and to order reimbursement." *Id.*, at 479-80.

10. Additionally, when the defendant in *Durka* argued that the district court's failure to grant a hearing before issuing the order to pay violated due process, the reviewing court concluded that "[T]he fixing of compensation and reimbursement pursuant to 18 U.S.C.A. § 3006 A ... is a matter within the exclusive discretion of the district court and is not such an event that requires the procedural safeguards of an adversary hearing." *Id.* at 480. The court also found that "if the defendant refused to comply with the district court's order and contempt proceedings are recommended ... the defendant will be entitled to a hearing ... at which time he may assert his defenses to payment." *Id.* In this case, the defendant's financial ability to pay can be determined at a contempt hearing or the Court may wish to have the United States Probation office make such a determination before any order hereunder is granted.

11. The decision in *Durka* has been followed in the Seventh Circuit.³

FUNDS AVAILABLE

12. A website at www.freebarrettbrown.org was created on or about September 27, 2012 (see Attachment A). The www.freebarrettbrown.org site explains the charges pending against Barrett Brown, and encourages individuals to donate to his defense.

[Barrett Brown] is currently incarcerated while awaiting trial in Mansfield,

³ See *United States v. Martin -Trigona*, 684 F.2d 485, 492 (7th Cir.1982); *United States v. Gurtunca*, 836 F.2d 283, 289 (7th Cir.1987); *United States v. Angulo*, 864 F.2d 504, 509 (7th Cir.1988); and *United States v. Ross*, 917 F.2d 997, 998 (7th Cir.1990). (Note: In these four cases, the defendants were convicted).

TX. At this critical time, with such a prominent internet activist facing an extremely difficult legal battle and uncertain future, he needs our unwavering help and support. We encourage you to donate to his defense, so that he may have the resources he needs to fight these charges.

13. Donations are also solicited through the twitter account @FreeBarrett_ (see Attachment _B). The twitter account @ FreeBarrett provides a link to the www.freebarrettbrown.org site. The www.freebarrettbrown.org site provides two donation links, one for bitcoin and the other for www.wepay.com.⁴ The www.wepay.com is an online site providing a payment platform (merchant processing) for individuals and small businesses. “Customers” can pay or transfer funds to the wepay.com account holder by credit cards or ACH bank transfers. The www.wepay.com link on the www.freebarrettbrown.org site is <https://www.wepay.com/donations/free-barrett-brown>. This link brings up a page, which states the following (see Attachment C):

DONATE NOW.

Help raise funds for the legal defense of Barrett Brown -- American activist, author and founder of distributed think tank Project PM. Each dollar raised is your vote in this important campaign for free speech and transparency on the internet -- and around the world.

Each individual's generosity and support goes directly to Barrett so that someday he will be able to resume his important work. What information you choose to provide will be kept confidential.
For more information: <http://freebarrettbrown.org>.

14. The <https://www.wepay.com/donations/free-barrett-brown> account was set up by Brown’s supporters on September 27, 2012, and is under the control of Karen Lancaster. (see Attachment D). As of February 8, 2011, the

⁴ The wepay.com link is <https://www.wepay.com/donations/free-barrett-brown>.

www.wepay.com account contained \$4,727.89 dollars⁵ (per attachment C). A representative from www.wepay.com confirmed on February 1, 2013, that “[n]o funds raised . . . have been withdrawn” (see Attachment D). The www.wepay.com account is associated with Barrett Brown’s [REDACTED] bank account [REDACTED]. Karen Lancaster is a co-signer on Brown’s [REDACTED] bank account.

SEALING

15. This motion and the attachments reference individuals who are not named defendants. This motion and Attachment D contains credit card or bank information associated with those individuals. Therefore the government requests that this motion be sealed.

CONCLUSION

16. In conclusion, the government respectfully requests that Honorable Court issue an order (1) directing Barrett Brown and Karen Lancaster to pay to the clerk of the United States District Court for the Northern District of Texas any and all funds at www.wepay.com or in the related [REDACTED] Bank account, held on behalf of Barrett Brown, and held specifically to pay for Brown’s legal representation in the above matter; (2) directing the clerk of the United States District Court for the Northern District of Texas to apply said funds to the cost of the representation provided to Barrett Brown by the Office of the Federal Public Defender in the Northern District of Texas, (3) authorizing or ordering the United States Attorney to institute contempt proceedings against Barrett

⁵ Just prior to filing this motion the government checked and verified this amount.

Brown or Karen Lancaster, if either one fails to turn over the funds on or before a date certain; and (4) sealing this motion, and any response filed thereto.

Respectfully submitted,

SARAH R. SALDAÑA
UNITED STATES ATTORNEY

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CERTIFICATE OF CONFERENCE

I hereby certify that on February 11, 2013, I conferred with Barrett Brown's attorney Doug Morris about this motion. Mr. Morris advised me that he opposed the motion.

S/ Candina S. Heath
CANDINA S. HEATH
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2013, I electronically filed the foregoing document with the clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to Brown's attorney of record Doug Morris who consented in writing to accept this Notice as service of this document by electronic means.

S/ Candina S. Heath
CANDINA S. HEATH
Assistant United States Attorney

Exhibit E

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	Criminal Nos. 3:12-CR-317-L
	§	3:12-CR-413-L
BARRETT LANCASTER BROWN	§	3:13-CR-030-L

ORDER

On March 29, 2013, this court ordered Defendant Barrett Lancaster Brown to submit a supplemental CJA 23 Financial Affidavit to the court. This supplemental affidavit has been submitted to the court. Pursuant to 28 U.S.C. § 636(b), the court **refers** this matter to United States Magistrate Judge **Paul D. Stickney** for review and any determination to be made regarding his appointment of counsel.

It is so ordered this 16th day of April, 2013.

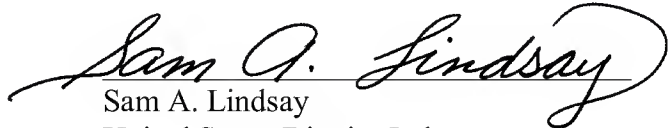

Sam A. Lindsay
United States District Judge

Exhibit F

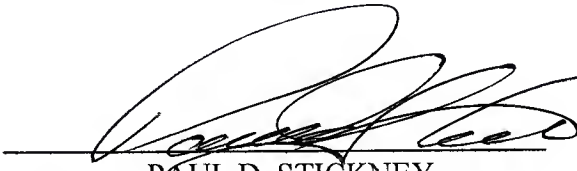
CLERK, U.S. DISTRICT COURT
By _____ Deputy

NO. 3:12-CR-317-L
3:12-CR-413-L
3:12-CR-030-L

The Court further sets a hearing on this matter for May 1, 2013 at 9:30 a.m., to determine

if Mr. Brown should be required to contribute towards the cost of his court-appointed attorney.

Signed this 17th day of April, 2013.



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE

Exhibit G

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

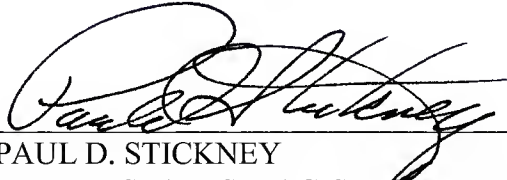
UNITED STATES OF AMERICA]	
]	
vs.]	NO. 3:12-CR-317-L
		3:12-CR-413-L
BARRETT LANCASTER BROWN		3:13-CR-030-L

ORDER DENYING GOVERNMENT'S MOTION TO DIRECT FUNDS BE PAID

On May 1, 2013, the above-named Defendant, represented by counsel, appeared before this Court on Government's Motion to Direct Funds Be Paid. After hearing argument of counsel and reviewing the evidence submitted, it is clear the funds in question were obtained on behalf of the Defendant for the purpose of retaining counsel. This Court finds the funds should be used for that purpose. The Court finds the Government's Motion was filed in the interests of justice and to assure the Defendant is not wrongly receiving court-appointed counsel when he should not. However, this Court does find the release of the money to retained counsel will save the taxpayers more than if the Court forfeited the funds to pay for a portion of the costs to the Federal Public Defender. It would be a substantial drain on the resources of the Federal Public Defender to continue to represent Mr. Brown in light of the fact his retained counsel are doing much of the work *pro bono*. Retained counsel have indicated to the Court they do not intend to seek Criminal Justice Act funds in representing Mr. Brown.

This Court finds the Governments Motion should be and hereby is DENIED.

SIGNED this 30TH day of May, 2013.



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE